

“(b) For purposes of this section—

“(1) the term ‘Member of Congress’ includes the delegates from the District of Columbia, Guam, and the Virgin Islands, and the Resident Commissioner from Puerto Rico;

“(2) the term ‘State’ includes the District of Columbia; and

“(3) the term ‘personal property tax’ means any tax imposed on an annual basis and levied on, with respect to, or measured by, the market value or assessed value of an item of personal property.

“(c) This section shall apply to all taxable periods beginning on or after January 1, 1985.”

#### **§ 114. Limitation on State income taxation of certain pension income**

(a) No State may impose an income tax on any retirement income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).

(b) For purposes of this section—

(1) The term “retirement income” means any income from—

(A) a qualified trust under section 401(a) of the Internal Revenue Code of 1986 that is exempt under section 501(a) from taxation;

(B) a simplified employee pension as defined in section 408(k) of such Code;

(C) an annuity plan described in section 403(a) of such Code;

(D) an annuity contract described in section 403(b) of such Code;

(E) an individual retirement plan described in section 7701(a)(37) of such Code;

(F) an eligible deferred compensation plan (as defined in section 457 of such Code);

(G) a governmental plan (as defined in section 414(d) of such Code);

(H) a trust described in section 501(c)(18) of such Code; or

(I) any plan, program, or arrangement described in section 3121(v)(2)(C) of such Code, if such income—

(i) is part of a series of substantially equal periodic payments (not less frequently than annually) made for—

(I) the life or life expectancy of the recipient (or the joint lives or joint life expectancies of the recipient and the designated beneficiary of the recipient), or

(II) a period of not less than 10 years, or

(ii) is a payment received after termination of employment and under a plan, program, or arrangement (to which such employment relates) maintained solely for the purpose of providing retirement benefits for employees in excess of the limitations imposed by 1 or more of sections 401(a)(17), 401(k), 401(m), 402(g), 403(b), 408(k), or 415 of such Code or any other limitation on contributions or benefits in such Code on plans to which any of such sections apply.

Such term includes any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code.

(2) The term “income tax” has the meaning given such term by section 110(c).

(3) The term “State” includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

(e)<sup>1</sup> Nothing in this section shall be construed as having any effect on the application of section 514 of the Employee Retirement Income Security Act of 1974.

(Added Pub. L. 104-95, §1(a), Jan. 10, 1996, 109 Stat. 979.)

#### **REFERENCES IN TEXT**

The Internal Revenue Code of 1986, referred to in subsec. (b)(1), is classified generally to Title 26, Internal Revenue Code.

Section 514 of the Employee Retirement Income Security Act of 1974, referred to in subsec. (e), is classified to section 1144 of Title 29, Labor.

#### **EFFECTIVE DATE**

Section 1(c) of Pub. L. 104-95 provided that: “The amendments made by this section [enacting this section] shall apply to amounts received after December 31, 1995.”

#### **§ 115. Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky**

Pay and compensation paid to an individual for personal services at Fort Campbell, Kentucky, shall be subject to taxation by the State or any political subdivision thereof of which such employee is a resident.

(Added Pub. L. 105-261, div. A, title X, §1075(a)(1), Oct. 17, 1998, 112 Stat. 2138.)

#### **EFFECTIVE DATE**

Pub. L. 105-261, div. A, title X, §1075(a)(3), Oct. 17, 1998, 112 Stat. 2138, provided that: “The amendments made by this subsection [enacting this section] shall apply to pay and compensation paid after the date of the enactment of this Act [Oct. 17, 1998].”

#### **§ 116. Rules for determining State and local government treatment of charges related to mobile telecommunications services**

(a) APPLICATION OF THIS SECTION THROUGH SECTION 126.—This section through<sup>1</sup> 126 of this title apply to any tax, charge, or fee levied by a taxing jurisdiction as a fixed charge for each customer or measured by gross amounts charged to customers for mobile telecommunications services, regardless of whether such tax, charge, or fee is imposed on the vendor or customer of the service and regardless of the terminology used to describe the tax, charge, or fee.

(b) GENERAL EXCEPTIONS.—This section through<sup>1</sup> 126 of this title do not apply to—

(1) any tax, charge, or fee levied upon or measured by the net income, capital stock, net worth, or property value of the provider of mobile telecommunications service;

(2) any tax, charge, or fee that is applied to an equitably apportioned amount that is not determined on a transactional basis;

(3) any tax, charge, or fee that represents compensation for a mobile telecommunications service provider’s use of public rights of way or other public property, provided that

<sup>1</sup> So in original. No subsecs. (c) and (d) have been enacted.

<sup>2</sup> So in original. Probably should be followed by “section”.